



CITY OF CONCORD

REPORT TO MAYOR AND CITY COUNCIL

FROM: Matthew R. Walsh, Dir. of Redevelopment, Downtown Services
& Special Projects

DATE: November 13, 2017

SUBJECT: Former Allied Leather Tannery Purchase Option Agreement with Caleb
Development Corporation

Recommendation:

Accept this report and approve the attached consent resolution authorizing additional modifications to Amendment 1 of the Purchase Option Amendment as follows: removal of all provisions pertaining to a “senior preference” for the proposed development, modifications to Exhibit 5 “Schedule for Buyer’s Project”, as well as clarifications pertaining to the scope of demolition for the 4,100SF former warehouse building.

City Administration requests that the City Council grant the City Manager the authority to negotiate and execute the attached amendment in order to clear the way for Caleb to file their tax credit application with NHHFA by the November 21st deadline. Delaying action, or denying these requests, would likely cause Caleb’s project to no longer be viable.

Background:

On May 8, 2017 the City Council approved Resolution #8994, which authorized the City Manager to enter into a Purchase Option Agreement with the Caleb Development Corporation concerning sale and redevelopment of a 2.5+/- acre portion of the former Allied Leather Tannery site located at 11-35 Canal Street. Caleb plans to acquire the property for \$540,000 to develop a 54 unit workforce housing project. The development budget for Phase I is \$8.6 million.

Workforce housing projects are customarily financed, in part, by Low Income Housing Tax Credits (LIHTCs); a federal tax credit program which is accessed through the NH Housing Finance Authority (NHHFA). On August 7, 2017, Caleb filed its preliminary application for credits with NHHFA. The pre-application process is required for all projects.

On September 11, 2017 the City Council approved Resolution #9036 which authorized the City Manager to enter into a Purchase Option Agreement Amendment with Caleb concerning an interim subdivision configuration between the City and Developer’s parcels in order to facilitate demolition of the former warehouse building at the premises by the Developer.

On September 13, 2017 Caleb secured a variance from the Zoning Board of Adjustment for the project. The project subsequently received conditional site plan and subdivision approval from the Planning Board on October 18, 2017.

To date, Caleb has invested approximately \$100,000 in predevelopment activities including design, permitting, due diligence, and preparation of tax credit applications. Pending receipt of tax credits and financing, certain State development permits, and completion of design documents for their building, Caleb is prepared to move forward with construction of their project.

Currently Caleb is preparing its final application for LIHTCs which is due on November 21, 2017. Awards will be announced in late winter / early spring 2018.

Discussion:

Based upon NH Housing Finance Authority's review of Caleb's preliminary tax credit application, and other considerations, Caleb is requesting that the Purchase Option Agreement be amended as follows. These changes would be incorporated into Amendment 1 for the agreement.

1) Removal of "Senior Preference" Provisions:

- a. Caleb's Request: Based upon specific feedback provided by the NH Housing Finance Authority the Developer has requested that the Agreement be modified to delete provisions related to a "senior preference" for the project.

Currently, Section 2.1.1 of the Purchase Option Agreement states: "*The Buyer further covenants that said development shall be a **multigenerational affordable housing project, with preference for senior citizen tenants**, to be financed, in part, by Low Income Housing Tax Credits (LIHTCs).*"

Specifically, as part of its review of Caleb's preliminary tax credit application, the NHHFA has determined that a "senior preference" for a multigenerational project would be inconsistent with tax credit rules. Rather, in order to comply with tax credit regulations, NHHFA has determined that Caleb that must pursue either a "multigenerational development" or an "age-restricted senior project".

As noted in Section 2.1.1 of the Option Agreement, Caleb has always intended to develop the property as a multifamily development, as they believe it is important to have a diversity of age groups customarily found in most neighborhoods. While they have also wanted to have a meaningful population of senior households at the development, they have never wanted to pursue an "age restricted" project, as that would compromise their vision and goals for the development.

In addition to compromising the vision and goals for the development, an "age restricted" project would result in financial challenges for Caleb's project. Specifically, per NHHFA rules, age restricted projects are only eligible for \$600,000 in tax credits, as opposed to non-age restricted projects which are eligible for \$800,000. NHHFA has established this policy as it has been their goal foster more multigenerational projects in New Hampshire; as such developments

are critical for economic development. Reduction of potential funding would threaten the viability of Caleb's project.

Beyond a reduction in potential funds, an age restricted project would also result in Caleb's project not being competitive for tax credits altogether. Specifically, tax credit applications are awarded through a competitive process based upon a "points system." Age restricted projects are penalized 10 points as compared to multigenerational projects. While 10 points might sound insignificant, the reality is that tax credit applications are highly competitive and the loss of those points can make the difference between a successful application and unsuccessful application. NHHFA only has \$3.14 million of credits available for the 2018 round. This will fund 4-5 projects statewide. Typically 10-20 projects apply for credits annually. Therefore competition is anticipated to be very strong. If Caleb is unable to secure LIHTCs, their project would likely not be viable.

For these reasons, Caleb has requested that the Senior Preference language be removed from the Purchase Option Agreement.

- b. Staff Recommendation: Staff recommends removing the "senior preference" language for the following reasons:
- i. As noted in Section 2.1.1, Caleb has always intended to pursue a multigenerational project, with a meaningful population of senior households. Although the project will no longer have a formal preference for seniors, Caleb fully intends to market the project to seniors, and it is anticipated the development will have a meaningful senior population given its unique location and related attributes (bus line, walkability, access to the medical clinic, etc.).
 - ii. There is a significant shortage of available work force housing in the community. Currently rental vacancy rates are around 1%. The City needs quality workforce housing opportunities in order to support local employers and achieve economic development goals.
 - iii. Removal of the senior preference language will not have a material impact to the Merrimack Valley School District for several reasons.

First, it is anticipated that a meaningful senior population will move into the development regardless of a formal "preference" because of its location and unique attributes.

Secondly, of the total 54 units to be developed, only 14 (i.e. 25%) will have 2 bedrooms, thereby limiting the development's capacity for households with children.

Lastly, projections prepared by staff in April 2017 estimated that 9+/- school aged children could result from the project. These projections were based on multipliers developed for the City's impact fee ordinance in 2001, and were not adjusted for a "senior preference." As a result, there is no change to this projection resulting from this amendment.

- iv. Without tax credits, Caleb's project will likely not be financially viable, and may result in Caleb withdrawing from the project. Given lack of interest in the market place for the Tannery site, the property could lay fallow in its current state for years before another viable project comes along (if any).

Again, Caleb's tax credit application is due on November 21st. Therefore, it is important that the City consent to these changes or the developer's application could be delayed for one year.

2) Modification of Exhibit 5 "Schedule for Buyer's Project":

- a. Caleb's Request: Like the senior preference provision, NHHFA has also requested modifications to Exhibit 5 "Schedule for Buyer's Project" concerning specific items related to tax credits for Caleb's Project, as detailed in the attached amendment. Essentially, NHHFA has requested that provisions related the process for seeking potential future tax credits for Phase 2 of Caleb's project (20 units) in Exhibit 5 to be softened, as the rules nor the corresponding schedule for the 2019 / 2020 tax credit rounds have yet been established.
- b. Staff Recommendation: Staff recommends approval of the proposed changes as they have no material impact on the Agreement.

3) Demolition Provisions:

- a. Caleb's Request: As the City Council will recall, Caleb is responsible for demolition of the 4,100SF "former warehouse building" on the north side of the property. This building straddles the boundary between the City and Developer's respective parcels.

The demolition provision in the Purchase Option Agreement reads as follows:
"the Buyer shall be responsible for demolition of the 4,100SF former warehouse / waterproofing building and 2,600SF former brick office building by at the Buyer's sole expense in the event that the Buyer does not incorporate reuse of these structures into the Buyer's Project."

Caleb has requested that the Purchase Agreement be clarified to stipulate that Caleb will not be responsible for removing the building foundation. Caleb has made this request as it is generally customary to partially crush and back fill foundations of demolished buildings in place when no new structures are planned to be erected in their place.

- b. Staff Recommendation: Caleb's proposal to leave the foundation in place will not inhibit the City's future use of the park property, or result in any substantive costs to the City when the future river front park is developed. Therefore staff recommends approval of this request.

These proposed changes have been incorporated into the attached Option to Purchase Agreement Amendment #1. As the Council will recall, this amendment also addresses other issues pertaining to subdivision of the premises previously reviewed and approved by the City Council by passage of resolution #9036 on September 11, 2017.